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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,989	03/24/2004	Kazuhiko Funatsu	40030232-02	4670

7590 06/24/2008  
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EXAMINER
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AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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06/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/807,989	<b>Applicant(s)</b> FUNATSU ET AL.	
	<b>Examiner</b> RASHA S. AL AUBAIDI	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-36 are rejected under 35 U.S.C. 102(e) as being anticipated by El-Hennawey et al. (Pub. No.: US 2004/0071084).

Regarding claim 1, El-Hennawey teaches a system which is used to evaluate the speech quality of a call [see 0006, 0007 ] between telephone terminals via a packet network [0028], said system comprising: a sound signal transmitter which transmits sound signals [see 0012 and 0046]; a first packet capturing device which captures a first packet which corresponds to said sound signals [0023]; a sound signal receiver which

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receives said sound signals which have become degraded while passing through said packet network [0022]; a second packet capturing device which captures a second packet that corresponds to said sound signals which have become degraded [see 0023 and 0052]; and a speech quality evaluation means [this reads on QoS monitoring device 16, see 0026] which evaluates the speech quality of a call between said telephone terminals using: (a) sound signals which are transmitted by said sound signal transmitter; (b) sound signals which are received by said sound signal receiver; (c) said first packet; and (d) said second packet.

Claims 15, 18-19, 20-22, 24, 26-27, 29-30, 32, 34 and 36 are rejected for the same reasons as discussed above with respect to claim 1. The claimed "database" as recited in claim 26 reads on log 164 [0048]. For the claimed "delay" as recited in claims 18, 21 and 29, see [0058]. For the claimed "decoder" as recited in claim 32, this basically reads on decoder 186 as shown in Fig. 4.

Claim 2 recites "in said first packet capturing device and said second packet capturing device capture a packet which corresponds to a sound part in said sound signals". This limitation is inherent.

Claim 3 recites "said speech quality evaluation means determines the amount of sound delay by comparing: (1) said sound signals which are transmitted by said sound signal transmitter; (2) said sound signals which are received by said sound signal

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receiver for each sound part in the respective signals; and (3) evaluates the speech quality of a call between said telephone terminals using said amount of sound delay”.

See [0058].

Claim 4 is rejected for the same reasons as discussed above with respect to claim 3.

Claim 5 recites “wherein the system is provided with: a means which decodes the first decoded sound signals from said first packet; and a means which decodes the second decoded sound signals from said second packet; said speech quality evaluation means determines the amount of sound delay by comparing: (1) said first decoded sound signals; and (2) said second decoded sound signals and evaluates the speech quality of a call between said telephone terminals using said amount of sound delay”.

See [0051 and 0056].

For claim 6, see [0051 and 0056].

Claim 7 recites “said speech quality evaluation means evaluates the speech quality of a call between said telephone terminals by determining the R-value using said amount of sound delay”. For determining the delay, see [0061 and 0063]

Claims 8-9 are rejected for the same reasons as discussed above with respect to claim 7.

As for the display as recited in claims 10-11 and 28, see Fig. 1 and corresponding text.

Claim 12 recites “the evaluation being carried out in prescribed time units whether or not the evaluation of the communication between said telephone terminals has been completed”. This is inherent in the El-Hennawey system.

Claims 13 and 25 recite “wherein said system carries out the evaluation in said prescribed time units or carries out the evaluation while changing the combination of said telephone terminals according to a schedule”. See [0037]

For claims 14, 16 and 23 see [0037].

Claim 17 recites “wherein said sound signals which are transmitted by said sound signal transmitter are the recorded natural voice of the person using said telephone terminal”. See [0035].

For claim 31, limitations see [0069].

For claims 33 and 35, these limitations are inherent.

***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S. AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rasha S AL-Aubaidi/

Primary Examiner, Art Unit 2614